

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JELANI RONDELL ROGERS,

Plaintiff,

-against-

ARRESTING OFFICER CARTAGENA;
ARRESTING OFFICER MONTALVO; JOHN DOE
TRANSPORT DRIVER WHO DROVE ME TO THE
DETECTIVE DIVISION; UNKNOWN OFFICER
WHO SEARCH MY HOME 1; UNKNOWN
OFFICER WHO SEARCH MY HOME 2,

AFFIDAVIT BY DETECTIVE
ROBERT MONTALVO IN
SUPPORT OF
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT

10 CIV 9285 (JPO)

Defendants.

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STATE OF NEW YORK)
) SS:
COUNTY OF WESTCHESTER)

ROBERT MONTALVO, being duly sworn, deposes and says:

1. I am a Detective with the Yonkers Police Department and submit this Affidavit in support of the motion for summary judgment submitted on my behalf and on behalf of Yonkers Detective Hector Cartagena in this matter.
2. On October 29, 2010, Detective Cartagena and I responded to 16 Mulberry Street in Yonkers to conduct surveillance for Jelani Rogers who was a suspect in a shooting that occurred on October 23, 2010. After observing plaintiff leave 16 Mulberry Street, Detective Cartagena and I stopped plaintiff's car with the assistance of a marked patrol car on Rumsey Road by the entrance of the Saw Mill Parkway. Plaintiff exited his vehicle without incident. Detective Cartagena advised plaintiff that he was a suspect in a shooting and plaintiff stated

that we could check his vehicle because he had nothing to hide. Detective Cartagena and I searched the vehicle. The uniformed officers were not involved in the search.

3. With regard to plaintiff's assertion in his Complaint, regarding items taken from his vehicle, neither I nor Detective Cartagena removed a hunting knife or any items from plaintiff's vehicle. Moreover, I did not observe any uniformed officer remove a hunting knife or any other items from plaintiff's vehicle. Plaintiff's vehicle was impounded for safe keeping.

4. On October 29, 2010, subsequent to plaintiff's arrest, Detective Cartagena obtained a search warrant from Judge Martinelli of Yonkers City Court for plaintiff's apartment at 16 Mulberry Street, Apartment 1R in Yonkers. At approximately 9:00 p.m. Detective Cartagena and I responded to plaintiff's apartment along with uniformed officers from the Emergency Services Unit. The uniformed officers used plaintiff's key to enter the apartment, which they secured. Detective Cartagena and I conducted the apartment search. Upon entering the apartment I observed that the bedrooms were in disarray. I never damaged any of plaintiff's property nor did I see Detective Cartagena or any other officer damage property inside plaintiff's apartment. I did not take or remove any property from plaintiff's apartment and did not observe Detective Cartagena or any other officer take or remove any property from plaintiff's apartment. While conducting the search, plaintiff's girlfriend, Tanika Tunley showed up looking for plaintiff. Detective Cartagena advised Ms. Tunley as to why we were at plaintiff's apartment and allowed her to enter the apartment and observe while Detective Cartagena and I conducted the search. After completing the search, Detective Cartagena secured plaintiff's apartment with his keys.



DETECTIVE ROBERT MONTALVO

Sworn to before me this
8th day of February, 2012



NICOLE GRECO
Commissioner of Deeds
City of Yonkers, NY
Commission Expires 10/31/13